

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

MEETING DATE: 8/17/05

DIVISION: COUNTY ADMINISTRATOR

BULK ITEM: YES

DEPARTMENT: AIRPORTS

STAFF CONTACT PERSON: Peter Horton

AGENDA ITEM WORDING: Award of bid to Koch Corporation, as the most responsive bidder, for the Noise Insulation Program (NIP) Ph 4 Construction, for the Key West International Airport.

ITEM BACKGROUND: Per attached documents, Koch Corporation was the most responsive bidder for this project. The low bidder, HIPP Industries, was not the most responsive bidder due to irregularities in their bid.

PREVIOUS RELEVANT BOCC ACTION: Approval to submit Passenger Facility Charge Application # 8, October 15, 2003.

CONTRACT/AGREEMENT CHANGES: n/a

STAFF RECOMMENDATION: Approval to award bid to the most responsive bidder, Koch Corporation.

TOTAL COST: \$2,876,958.00

BUDGETED: Yes

COST TO AIRPORT: None

SOURCE OF FUNDS: FAA, FDOT, PFC Revenue

COST TO PFC: \$71,923.95

COST TO COUNTY: None

REVENUE PRODUCING: No

AMOUNT PER MONTH /YEAR:

APPROVED BY: County Attorney n/a

OMB/Purchasing n/a

Risk Management n/a

AIRPORT DIRECTOR APPROVAL _____



Peter J. Horton

DOCUMENTATION: Included X

Not Required

AGENDA ITEM # _____

DISPOSITION: _____

/bev
APB

16 June 2005

Deborah Murphy Lagos
 URS Corporation
 7650 West Courtney Campbell Causeway
 Tampa, FL 33607-1462

RE: Key West Noise Insulation Program (NIP) – Phase 4 Bid

Dear Mrs. Murphy Lagos:

Under the direction of THC, Inc. (THC), Miller Dunwiddie Architects (MDA) forwarded the Key West International Airport copies of the construction bids for the Key West Noise Insulation Program (NIP) – Phase 4. The bids were opened at the Monroe County purchasing office on 1 June 2005. The following two bids were received:

H.I.P.P. Industries, Inc.	-	\$2,756,916.00
Koch Corporation	-	\$2,876,958.00

After review of the bids and conversations with the Monroe County DBE Liaison Director Jerome Fain, THC and MDA have identified the following two (2) concerns with the bid received from H.I.P.P Industries:

1. Incomplete Unit Price Costs

H.I.P.P. Industries neglected to include the required unit price cost for item #1 and #2 on the lower portion of page 00410-3 of the bid form. This unit price item, although included in the total bid, provided information to the sponsor regarding the amount of funds that have been allocated for duct leakage testing and duct sealing.

2. Failure to meet the established Phase 4 DBE participation goal of 15.5%

The successful NIP Phase 4 bidder is required to meet the Disadvantaged Business Enterprises (DBE) provisions and shall utilize not less than the prescribed goal of 15.5% DBE participation. In the event the bidder does not meet or exceed the established DBE goal, the bidder is required to demonstrate and document to the Sponsor that it made a “good faith effort” in identifying DBE participation. Although the H.I.P.P. Industries bid documents indicated a 15.9% DBE participation level (\$440,000 of their total bid), a closer examination reveals that their DBE participation was actually only 11.9% (\$327,980 of their total bid), due to incorrect DBE participation calculations that are inconsistent with federal regulations (see attachment). THC has concluded that H.I.P.P. Industry’s bid has failed to meet the Phase 4 DBE participation goal of 15.5% due to the following facts:

- a. At the direction of THC, MDA contacted H.I.P.P Industries on 7 June 2005 to review their bid and confirm how their DBE participation percentage was obtained. H.I.P.P Industries subcontracted the electrical scope of the work to Florida Keys Electric (FKE), who is a certified DBE. This work alone was not sufficient to obtain the required DBE percentage. To obtain the required 15.5% DBE participation goal, FKE then subcontracted a portion of the mechanical work to Sub-Zero, who is not a certified DBE.
- b. The Key West and Marathon Airport DBE language states the following:
“Key West International Airport will count toward its DBE goal only expenditure to DBE’s who perform a commercially useful function in the work of a contract.”
The Key West and Marathon Airport DBE language further states:
“A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved.”
Since FKE is not actually performing the mechanical work, it is not (by the above definition) providing a commercially useful function.
- c. The DBE portion of specification section 00210 – Supplementary Instructions to Bidders requires the contractor to ensure that DBE as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of this contract. 49 CFR Part 26.55 states the following:
“When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE’s subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.”
- d. 49 CFR Part 26 Appendix A – Guidance Concerning Good Faith Efforts states the following:
“When, as a recipient, you establish a contract goal on a DOT assigned contract, a bidder must, in order to be responsible and/ or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn’t meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirements of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.”
- e. On 11 May 2005, THC and MDA conducted a Phase 4 Pre-Bid Meeting at which time all attendants received a “Key West International & Florida Keys Marathon Airports DBE Directory”. This directory contained ten (10) potential Key West area DBE Contractors, clearly enough potential contractors to meet the 15.5% participation goal. During the NIP Phase 4 bid process, H.I.P.P. Industries did not represent or communicate to THC or MDA that they were having difficulty obtaining DBE sub-contractor bids.

In summary, the intent of the NIP Phase 4 contract is to obtain a 15.5% DBE participation level. In the event this percentage is unattainable, the bidder has the responsibility to provide a “good faith effort” documenting how they obtained the most possible DBE participation. Based on the above information, THC has reached the following conclusions. First, FKE is not performing a commercially useful function as outlined in the Key West and Marathon Airport DBE plan. Second, H.I.P.P. Industries did not meet the DBE goal as outlined in 49 CFR Part 26.55. Finally, it does not appear that H.I.P.P. Industries demonstrated nor documented a “good faith effort” in their proposed DBE participation. In summary of the above information, H.I.P.P. Industries NIP Phase 4 bid clearly does not meet the established 15.5% DBE goal and, as a result of their lack to document and establish a good faith effort, H.I.P.P. does not appear to be a responsible and/or responsive bidder.

Review of second low bidder (Koch Corporation)

At the direction of THC, MDA also contacted Koch Corporation on 7 June 2005 and reviewed their bid on this project. Koch Corporation did include the required unit price cost for item #1 and #2 on the lower portion of page 00410-3 of the bid form which provides information to the sponsor regarding the amount of funds that have been allocated for duct leakage testing and duct sealing. In addition, Koch Corporation’s bid exceeded the established 15.5% DBE goal (16.6% DBE participation, \$477,281 of their total bid). After a detailed review of their bid proposal (see attachment), MDA has concluded that Koch Corporations 16.6% DBE participation calculation is consistent with 49 CFR Part 26.55 regulations, 49 CFR Part 26 Appendix A – Guidance Concerning Good Faith Efforts regulations and Phase 4 NIP Construction Specifications Section 00210.

Although Koch Corporation’s bid (\$2,876,958) is \$120,042 higher than the low bidder, it is still lower than the engineer’s estimate (\$3,309,798 - \$58,067 per home) and represents a construction average of \$50,472 per home.

NIP Phase 4 Award Recommendation

After review of the above information, THC recommends that the contract for Key West Noise Insulation Program (NIP) – Phase 4 be awarded to lowest responsible / responsive bidder, Koch Corporation, as they have met all the requirements for bidding as outlined in the construction documents.

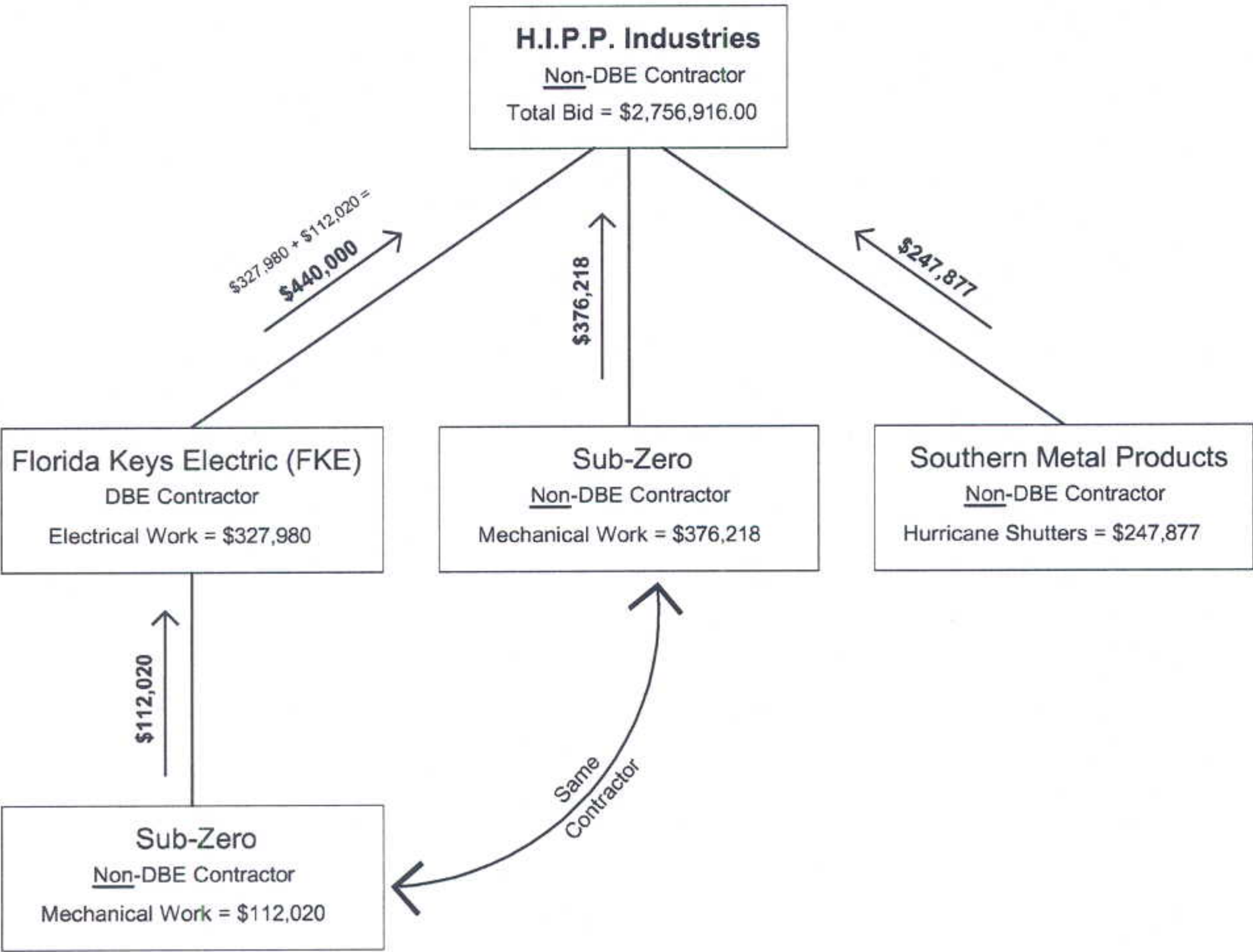
Please call with any questions that you may have regarding this information.

Sincerely,



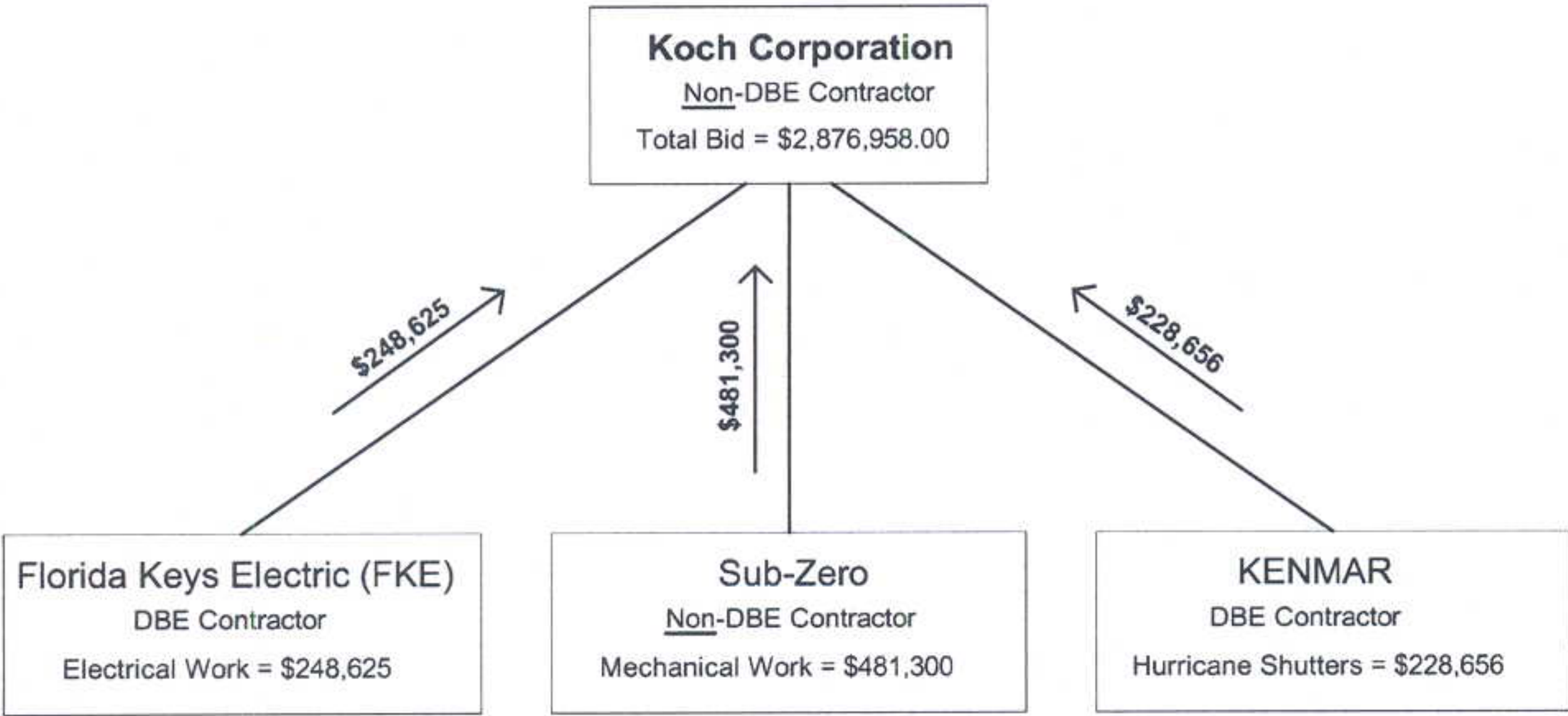
Steve Vecchi
THC Director of Sound Insulation Services

C: Tom Brown, MDA
Ben Newlin, MDA
Richard Sun, The Sun Group



Bid Breakdown	
Florida Keys Electric	\$ 327,980.00
Sub-Zero	\$ 112,020.00
Sub-Zero	\$ 376,218.00
Southern Metal Products	\$ 247,877.00
Remainder of Work	\$1,692,821.00
TOTAL H.I.P.P. BID	\$2,756,916.00

DBE Breakdown	
<u>Indicated DBE in H.I.P.P. Bid</u>	
\$327,980 (FKE) + \$112,020 (Sub-Zero) = \$440,000	
\$440,000 / \$2,756,916 = 15.9%	
<u>Actual DBE</u>	
\$327,980 (FKE)	
\$327,980 / \$2,756,916 = 11.9%	



Bid Breakdown	
Florida Keys Electric	\$ 248,625.00
Sub-Zero	\$ 481,300.00
KENMAR	\$ 228,656.00
Remainder of Work	\$1,918,377.00
TOTAL KOCH BID	\$2,876,958.00

DBE Breakdown	
<u>Indicated DBE in Koch Bid</u>	
\$248,625 (FKE) + \$228,656 (KENMAR) = \$477,281	
\$477,281 / \$2,876,958 = 16.6%	
<u>Actual DBE</u>	
\$248,625 (FKE) + \$228,656 (KENMAR) = \$477,281	
\$477,281 / \$2,876,958 = 16.6%	

**MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
NOISE INSULATION PROGRAM - PHASE 4
KEY WEST INTERNATIONAL AIRPORT**

PHASE 4 BID TABULATION

BID ITEM	HIPP INDUSTRIES	KOCH CORPORATION	ENGINEER ESTIMATE
1. BONDS & INSURANCE	\$82,678.00	\$40,000.00	\$66,195.96
2. PRECONSTRUCTION WORK	\$34,471.00	\$150,000.00	\$115,842.93
3. GENERAL CONDITIONS	\$330,710.00	\$216,628.00	\$330,979.80
4. WINDOWS	\$756,493.00	\$760,480.00	\$926,743.44
5. DOORS	\$401,636.00	\$455,986.00	\$496,469.70
6. STORM PRODUCTS	\$41,800.00	\$0.00	\$66,195.96
7. HURRICANE SHUTTERS	\$247,877.00	\$368,652.00	\$347,528.79
8. WALL MODIFICATION	\$45,033.00	\$110,534.00	\$49,646.97
9. MECHANICAL	\$488,238.00	\$481,300.00	\$579,214.65
10. ELECTRICAL	\$327,980.00	\$293,378.00	\$330,979.80
TOTAL	\$2,756,916.00	\$2,876,958.00	\$3,309,798.00

ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING OFFICE
TABULATION SHEET

OPEN DATE: JUNE 1, 2005 AT 11:00 AM

TITLE: KEY WEST INTERNATIONAL AIRPORT NOISE INSULATION PROGRAM PHASE 4

RESPONDENT	BID BOND	TOTAL BID
HIPP INDUSTRIES	YES 5%	\$2,756,916.00
KOCH CORPORATION	YES 5%	\$2,876,958.00

Bid Committee Present: Lisa Ernst Cherry and Carlos Victores - Purchasing Office and Ben Newlin, MDA
Members of the Public Present: Rusty Callahan & Rob Yount - Koch Corp.

I hereby certify that this is a true and correct copy of said bid opening and that all bidders listed above have been checked against the State of Florida Convicted & Suspended Vendor listings. All bids listed above were received by the date and time specified.

Bid Opened By: Lisa Ernst Cherry, Purchasing Supervisor



Subject FW: KWIA Noise Insulation Program - Phase 4

-----Original Message-----

From: Hutton-Suzanne

Sent: Thursday, July 14, 2005 3:15 PM

To: Horton-Peter

Cc: Cherry-Lisa

Subject: KWIA Noise Insulation Program - Phase 4

Peter:

I know you're thinking, "Why is Suzanne e-mailing me? She's not my airport attorney." However, the general public and most of County staff usually treat me like Mikey (as in "Let Mikey try it," only here it's "Call Suzanne - she handles everything"). Besides, I do deal with a lot of purchasing issues.

I received a call today with a request to look into the DBE aspect of the bids. The very face of the submitted documents indicates that HIPP has made a misrepresentation as to their DBE participation. The rules say that if there is a sub-contract to a non-DBE by a DBE, the value of that sub-contract is not to be included in the computation for the DBE participation. Nevertheless, HIPP has submitted a document asserting that 15.95% of the bid is DBE, but only the electrical contractor is a DBE. The A/C company is not. Therefore, their sub-contract amount should not be included in the DBE percentage calculation. Even if the electrical contractor had a license which would allow him to sub-contract the a/c work to a mechanical contractor, which I don't believe it does, the rules are pretty clear about the exclusion of the value of the non-DBE sub-contract. Accordingly, the documents which I saw (pages 00431-1, 00454-4, and 00454-5) seem to me to render the HIPP proposal non-responsive, at best. I will probably discuss this finding with Pedro whenever his schedule & mine coincides, but I would like to know why this proposal is still being treated as a responsive bid.

Suzanne A. Hutton